

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation and
Petition to Revoke Probation Against:**

JAMES ALFRED LEMUS, M.D.

**Physician's and Surgeon's
Certificate No. G42274**

Respondent

Case No. 800-2017-030624

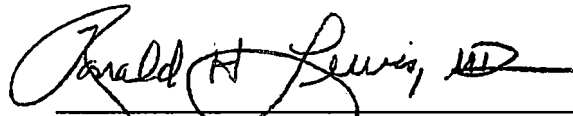
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 26, 2019.

IT IS SO ORDERED: March 28, 2019.

MEDICAL BOARD OF CALIFORNIA



Ronald Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
4 State Bar No. 119988
California Department of Justice
5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 269-6494
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation/Petition to
Revoke Probation Against:

14 **JAMES ALFRED LEMUS, M.D.**
15 **5020 East Washington Boulevard**
16 **City of Commerce, California 90040**

17 **Physician's and Surgeon's Certificate No. G**
18 **42274**

19 Respondent.

Case No. 800-2017-030624

OAH No. 2018060461

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Cindy M. Lopez,
27 Deputy Attorney General.
28

2. Respondent JAMES ALFRED LEMUS, M.D. (Respondent) is represented in this proceeding by attorney Joel Bruce Douglas, whose address is: 355 South Grand Ave., Ste. 1750 Los Angeles, CA 90071-1562

3. On or about July 1, 1980, the Board issued Physician's and Surgeon's Certificate No. G 42274 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 800-2017-030624, and will expire on September 30, 2019, unless renewed.

JURISDICTION

4. Accusation/Petition to Revoke Probation No. 800-2017-030624 was filed before the Board, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on March 15, 2017. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation.

5. A copy of Accusation/Petition to Revoke Probation No. 800-2017-030624 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2017-030624. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2017-030624, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation/Petition to Revoke Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie basis for the Third Cause for Discipline in the Accusation/Petition to Revoke Probation (Inaccurate Record Keeping), and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the term of seven years of probation imposed by Decision and Order in Case No. 11-2011-218741, effective February 8, 2013, a true copy of which is attached as Exhibit B, is extended for one additional year, for a total of eight years from February 8, 2013. All other terms and conditions of said Decision and Order remain unchanged and unaffected.

1. MONITORING - BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a billing evaluator, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. The billing evaluator shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the evaluator to render a fair and unbiased report to the Board, including but not limited to any form of bartering, and shall be in Respondent's field of practice. The Board or its designee shall provide the approved evaluator with copies of the Decision and Accusation. Respondent shall pay all evaluation costs.

Within 60 calendar days of the effective date of this Decision, Respondent shall make all records available to the evaluator for immediate inspection. The evaluator shall review the said records to determine if Respondent's current billing practices comport with acceptable standards of practice for billing.

The evaluator shall prepare a report summarizing his/her findings and impressions as to whether Respondent's current billing practices comport with acceptable standards of practice for billing. The report shall be sent to the Board's designee.

In the event the billing evaluator concludes that Respondent's current billing practices do not comport with acceptable standards of practice for billing, then within 30 calendar days of

1 notification thereof to the Respondent of that conclusion, Respondent shall submit to the Board
2 or its designee for prior approval as a billing monitor(s), the name and qualifications of one or
3 more licensed physicians and surgeons whose licenses are valid and in good standing, and who
4 are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have
5 no prior or current business or personal relationship with Respondent, or other relationship that
6 could reasonably be expected to compromise the ability of the monitor to render fair and unbiased
7 reports to the Board, including but not limited to any form of bartering, shall be in Respondent's
8 field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all
9 monitoring costs.

10 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
11 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
12 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
13 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
14 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
15 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
16 signed statement for approval by the Board or its designee.

17 Within 15 days of the billing monitor's submission of a signed statement agreeing with an
18 approved monitoring plan, Respondent's billing shall be monitored by the approved monitor for a
19 period of one year. Respondent shall make all records available for immediate inspection and, if
20 need be, copying on the premises by the monitor and shall retain the records for the entire term of
21 probation.

22 If Respondent fails to obtain approval of a billing monitor within 60 calendar days of the
23 effective date of this Decision, and/or, in the event the billing evaluator concludes Respondent's
24 current billing practices do not comport with acceptable standards of practice for billing, if
25 Respondent fails to obtain approval of a billing monitor within 60 days of notification by the
26 billing evaluator that Respondent's current billing practices do not comport with acceptable
27 standards for billing, Respondent shall receive a notification from the Board or its designee to
28 cease the practice of medicine within three (3) calendar days after being so notified. Respondent

1 shall cease the practice of medicine until a monitor is approved to provide monitoring
2 responsibility.

3 If a billing monitor is appointed, the monitor(s) shall submit a quarterly written report to the
4 Board or its designee which includes an evaluation of Respondent's performance, indicating
5 whether Respondent's practices are within the standards of practice for billing, and whether
6 Respondent is billing appropriately. It shall be the sole responsibility of Respondent to ensure
7 that the monitor submits the quarterly written reports to the Board or its designee within 10
8 calendar days after the end of the preceding quarter.

9 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
10 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
11 name and qualifications of a replacement monitor who will be assuming that responsibility within
12 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
13 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
14 notification from the Board or its designee to cease the practice of medicine within three (3)
15 calendar days after being so notified. Respondent shall cease the practice of medicine until a
16 replacement monitor is approved and assumes monitoring responsibility.

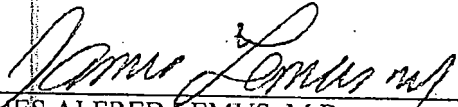
17 In lieu of a monitor, Respondent may participate in a professional enhancement program
18 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
19 review, semi-annual practice assessment, and semi-annual review of professional growth and
20 education regarding the issue of appropriate billing practices. Respondent shall participate in the
21 professional enhancement program at Respondent's expense during the term of probation.

22 23 ACCEPTANCE

24 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
25 discussed it with my attorney, Joel Bruce Douglas. I understand the stipulation and the effect it
26 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
27 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
28 Decision and Order of the Medical Board of California.

1
2 DATED:

1/9/19


JAMES ALFRED LEMUS, M.D.
Respondent

3
4 I have read and fully discussed with Respondent JAMES ALFRED LEMUS, M.D. the
5 terms and conditions and other matters contained in the above Stipulated Settlement and
6 Disciplinary Order. I approve its form and content.

7
8 DATED:

1/9/19


JOEL BRUCE DOUGLAS
Attorney for Respondent

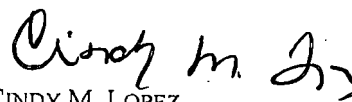
9
10
11 ENDORSEMENT

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Medical Board of California.

14
15 Dated: 3.6.19

Respectfully submitted,

16 XAVIER BECERRA
17 Attorney General of California
18 E. A. JONES III
19 Supervising Deputy Attorney General


20 CINDY M. LOPEZ
21 Deputy Attorney General
22 Attorneys for Complainant
23

24 LA2017504338
25 Lemus Stip JBD Revisions DRAFT 1-3-19 - Accepted Rev.docx
26
27
28

EXHIBIT A

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 897-6404
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 15, 2017
BY [Signature] ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation/Petition to
Revoke Probation Against:

13 JAMES ALFRED LEMUS, M.D.

14 5020 East Washington Boulevard
City of Commerce, California 90040

15 Physician's and Surgeon's Certificate
No. G 42274,

16 Respondent.

Case No. 8002017030624

17 **ACCUSATION AND PETITION TO**
18 **REVOKE PROBATION**

19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke
22 Probation solely in her official capacity as the Executive Director of the Medical Board of
23 California (Board).

24 2. On July 1, 1980, the Board issued Physician's and Surgeon's Certificate Number G
25 42274 to James Alfred Lemus, M.D. (Respondent). That license was in full force and effect at all
26 times relevant to the charges brought herein and will expire on September 30, 2017, unless
27 renewed.

28 //

3. In a criminal action brought in the United States District Court, Central District of California, Case No. CR11-00181-MMM, Respondent pled guilty and, on October 24, 2011, was convicted of violating 26 U.S.C. 7201, a felony, for attempting to evade or defeat payment of income tax. Specifically, during the 2003 tax year, Respondent owned and operated Lemus Medical Center, in Commerce, California. During that time period, Respondent provided physicals and drug testing to truck drivers as required by the Department of Transportation. Respondent required most of those truck drivers to pay for the testing in cash. Respondent received approximately \$88,663 in cash for performing these drug tests. Respondent knowingly failed to report these cash payments to the Internal Revenue Service. Respondent was sentenced to a one-month commitment to the Bureau of Prisons, supervised release for a period of three years, with nine months in a home detention program, filing and payment of taxes owed for 2003 through 2007, and additional fees and penalties.

4. In a disciplinary action entitled *In the Matter of the Accusation Against James Alfred Lemus, M.D.*, Case No. 11-2011-218741, on or about November 6, 2012, Respondent stipulated to the revocation of his Physician's and Surgeon's Certificate due to his felony criminal conviction for attempting to evade or defeat payment of income tax in violation of 26 U.S.C. 7201. Based on a Stipulated Settlement between Respondent and the Board, effective February 8, 2013, the Board issued a Decision and Order, in which Dr. Lemus' California Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was suspended for thirty days and placed on probation for a period of seven years with special terms and conditions.

JURISDICTION

5. This Accusation and Petition to Revoke Probation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

6. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

//

1 “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
2 Act.

3 “(b) The administration and hearing of disciplinary actions.

4 “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
5 administrative law judge.

6 “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
7 disciplinary actions.

8 “(e) Reviewing the quality of medical practice carried out by physician and surgeon
9 certificate holders under the jurisdiction of the board.

10 “(f) Approving undergraduate and graduate medical education programs.

11 “(g) Approving clinical clerkship and special programs and hospitals for the programs in
12 subdivision (f).

13 “(h) Issuing licenses and certificates under the board's jurisdiction.

14 “(i) Administering the board's continuing medical education program.”

15 7. Section 2227 of the Code states:

16 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
17 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
18 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
19 action with the board, may, in accordance with the provisions of this chapter:

20 “(1) Have his or her license revoked upon order of the board.

21 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
22 order of the board.

23 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
24 order of the board.

25 “(4) Be publicly reprimanded by the board. The public reprimand may include a
26 requirement that the licensee complete relevant educational courses approved by the board.

27 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
28 the board or an administrative law judge may deem proper.

1 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
2 review or advisory conferences, professional competency examinations, continuing education
3 activities, and cost reimbursement associated therewith that are agreed to with the board and
4 successfully completed by the licensee, or other matters made confidential or privileged by
5 existing law, is deemed public, and shall be made available to the public by the board pursuant to
6 Section 803.1.”

7 8. Section 2234 of the Code states:

8 “The board shall take action against any licensee who is charged with unprofessional
9 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
10 limited to, the following:

11 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
12 violation of, or conspiring to violate any provision of this chapter.

13 “...

14 “(e) The commission of any act involving dishonesty or corruption which is substantially
15 related to the qualifications, functions, or duties of a physician and surgeon.

16 “....”

17 9. Section 2261 of the Code states:

18 “Knowingly making or signing any certificate or other document directly or indirectly
19 related to the practice of medicine or podiatry which falsely represents the existence or
20 nonexistence of a state of facts, constitutes unprofessional conduct.”

21 10. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
22 adequate and accurate records relating to the provision of services to their patients constitutes
23 unprofessional conduct.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – False Representations)**

3 11. Respondent is subject to disciplinary action under Code sections 2234, subdivision
4 (a), and 2261 in that he submitted bills to insurance companies on which he named another
5 provider as the treating physician when, in fact, Respondent was the treating physician. The
6 circumstances are as follows:

7 12. Respondent is the owner and operator of Lemus Medical Center, Inc. (LMC) located
8 in Commerce, California. Respondent practices industrial medicine, primarily treating worker's
9 compensation patients and conducting disability evaluations.

10 13. Respondent works five or six days a week for approximately twelve hours a day.

11 14. During the time period relevant to the allegations herein, Respondent employed
12 another physician, Dr. A.¹, who treated patients at LMC on Wednesdays from 10:00 a.m. to 2:00
13 p.m. Dr. A. was not responsible for submitting bills for patient treatment to any insurance
14 providers.

15 **Patient G.S.**

16 15. Between January 16, 2014 and February 3, 2014, Respondent treated Patient G.S. on
17 at least five occasions.

18 16. On the claim Respondent submitted to the State Insurance Compensation Fund
19 (SICF) for payment for the services he provided to Patient G.S., Dr. A. is exclusively named as
20 the treatment provider.

21 17. On numerous of Patient G.S.'s medical records, as maintained by Respondent, Dr. A.
22 is named as Patient G.S.'s treatment provider.

23 18. On Patient G.S.'s remaining medical records, as maintained by Respondent,
24 Respondent is listed as the treatment provider.

25 19. Patient G.S. was never treated by Dr. A. and only by Respondent.

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27 _____
28 ¹ Initials will be used to protect the privacy of witnesses and patients.

1 **Patient C.D.G.**

2 20. On claims for payment that Respondent submitted to Employers Compensation
3 Insurance Company (ECI) for medical services that Respondent provided to Patient C.D.G.
4 between January 2, 2014 and January 30, 2014, Dr. A. is exclusively named as the treatment
5 provider.

6 21. On Patient C.D.G.'s medical records, as maintained by Respondent, for Patient
7 C.D.G.'s January 2, 2014 through January 30, 2014 visits, Dr. A. is named as Patient C.D.G.'s
8 treatment provider.

9 22. Patient C.D.G. was never treated by Dr. A. and only by Respondent.

10 **Patient J.D.G.**

11 23. On claims for payment that Respondent submitted to ECI for medical services that
12 Respondent provided to Patient J.D.G. between December 30, 2013 and January 23, 2014, Dr. A.
13 is exclusively named as the treatment provider.

14 24. On numerous of Patient J.D.G.'s medical records, as maintained by Respondent, Dr.
15 A. is named as Patient J.D.G.'s treatment provider.

16 25. On Patient J.D.G.'s remaining medical records, as maintained by Respondent,
17 Respondent is named as the treatment provider.

18 26. Patient J.D.G. was never treated by Dr. A. and only by Respondent.

19 27. Respondent knew that Dr. A. was sometimes named as the treatment provider on
20 insurance claims forms even though Respondent was actually the treating physician.

21 28. Respondent's acts and/or omissions as set forth in paragraphs 12 through 27,
22 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
23 false representations in violation of Code sections 2234, subdivision (a), and 2261 and cause for
24 discipline exists.

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1 CAUSE TO REVOKE PROBATION

2 (Failure to Obey All Laws)

3 36. At all times after the effective date of Respondent's probation, Condition 5 of the
4 Decision, (attached hereto as Exhibit A), stated:

5 "OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
6 governing the practice of medicine in California and remain in full compliance with any court
7 ordered criminal probation, payments, and other order."

8 37. Paragraphs 12 through 35 are incorporated by reference and re-alleged as if fully set
9 forth herein.

10 38. Respondent violated his probation because he violated the laws governing the
11 practice of medicine in California (Code sections 2234, subdivisions (a) and (e), 2234 and 2266)
12 when he submitted bills to insurance companies on which he named another provider as the
13 treating physician when, in fact, Respondent was the treating physician; and when he documented
14 in Patients G.S.'s, C.D.G.'s and J.D.G.'s medical record that they were treated by Dr. A. and not
15 himself.

16 39. Respondent's probation is subject to revocation because he violated Condition 5 of
17 his probation, as set forth above in paragraphs 37 through 38.

18 DISCIPLINARY CONSIDERATIONS

19 40. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges that Respondent was previously disciplined for incurring a felony criminal
21 conviction for attempting to evade or defeat payment of income tax in violation of 26 U.S.C.
22 7201. Specifically, on or about February 8, 2013, in a disciplinary action entitled, *In the Matter*
23 *of the Accusation Against James Alfred Lemus, M.D.*, Medical Board of California, Case No. 11-
24 2011-218741 Respondent's license was revoked with the revocation stayed and seven years of
25 probation imposed. Respondent's license was also suspended for thirty days. That decision is
26 now final and is incorporated by reference as if fully set forth herein.

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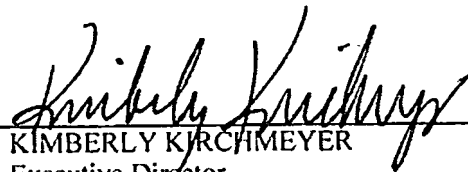
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 11-2011-218741 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. G 42274 issued to James Alfred Lemus, M.D.;
2. Revoking or suspending his Physician's and Surgeon's Certificate;
3. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;
4. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and
5. Taking such other and further action as deemed necessary and proper.

DATED: March 15, 2017



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

LA2017504338

EXHIBIT A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

JAMES ALFRED LEMUS, M.D.)

Case No. 11-2011-218741

Physician's and Surgeon's)
Certificate No. G-42274)

Respondent)
_____)

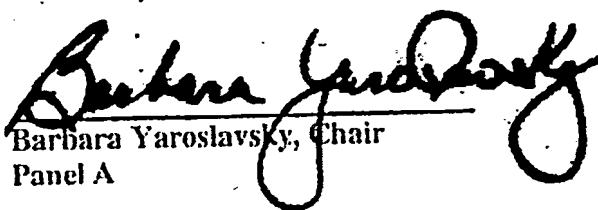
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 8, 2013.

IT IS SO ORDERED: January 9, 2013.

MEDICAL BOARD OF CALIFORNIA


Barbara Yaroslavy, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
California Department of Justice
5 300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 620-6068
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 JAMES ALFRED LEMUS, M.D.
5020 East Washington Boulevard
City of Commerce, California 90040

14 Physician's and Surgeon's Certificate No. G
42274

15 Respondent.

Case No. 11-2011-218741

OAH No. 2012090231

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES.**

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs (Board). She brought this action solely in her
23 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
24 State of California, by Peggine Bradford Tarwater, Deputy Attorney General.

25 2. Respondent James Alfred Lemus, M.D. (Respondent) is represented in this
26 proceeding by attorney Thomas R. Bradford, Esq., whose address is 100 North First Street, Suite
27 300, Burbank, California 91502
28

1 3. On or about July 1, 1980, the Medical Board of California issued Physician's and
2 Surgeon's Certificate No. G 42274 to James Alfred Lemus, M.D. (Respondent). The Physician's
3 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
4 in Accusation No. 11-2011-218741 and will expire on September 30, 2013, unless renewed.

5 JURISDICTION

6 4. Accusation No. 11-2011-218741 was filed before the Medical Board of California
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 July 24, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 11-2011-218741 is attached as Exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 11-2011-218741. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 his own expense; the right to confront and cross-examine the witnesses against him; the right to
20 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
21 the attendance of witnesses and the production of documents; the right to reconsideration and
22 court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 11-2011-218741.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Medical Board of California or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
24 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42274 issued to Respondent James Alfred Lemus, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for seven years on the following terms and conditions.

1. **ACTUAL SUSPENSION.** As part of probation, Respondent is suspended from the practice of medicine for 30 days. Days spent in custody as a result of Respondent's commitment to the Bureau of Prisons in United States District Court, Central District of California, Case Number CR11-00181-MMM may be credited to meet the 30-day requirement.

2. **COMMUNITY SERVICE - FREE SERVICES.** Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall within the first three years of probation, provide 300 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. Prior to engaging in any community service, Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

3. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified

1 by the program, but no later than one year after attending the classroom component. The
2 professionalism program shall be at Respondent's expense and shall be in addition to the
3 Continuing Medical Education requirements for renewal of licensure.

4 A professionalism program taken after the acts that gave rise to the charges in the
5 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
6 or its designee, be accepted towards the fulfillment of this condition if the program would have
7 been approved by the Board or its designee had the program been taken after the effective date of
8 this Decision.

9 Respondent shall submit a certification of successful completion to the Board or its
10 designee not later than 15 calendar days after successfully completing the program or not later
11 than 15 calendar days after the effective date of the Decision, whichever is later.

12 4. NOTIFICATION. Within seven days of the effective date of this Decision,
13 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
14 Chief Executive Officer at every hospital where privileges or membership are extended to
15 Respondent, at any other facility where Respondent engages in the practice of medicine,
16 including all physician and locum tenens registries or other similar agencies, and to the Chief
17 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
18 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
19 calendar days.

20 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

21 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
22 governing the practice of medicine in California and remain in full compliance with any court
23 ordered criminal probation, payments, and other orders.

24 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
25 under penalty of perjury on forms provided by the Board, stating whether there has been
26 compliance with all the conditions of probation.

27 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
28 of the preceding quarter.

1 7. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit and all terms and conditions of
4 this Decision.

5 Address Changes

6 Respondent shall, at all times, keep the Board informed of Respondent's business and
7 residence addresses, email address (if available), and telephone number. Changes of such
8 addresses shall be immediately communicated in writing to the Board or its designee. Under no
9 circumstances shall a post office box serve as an address of record, except as allowed by Business
10 and Professions Code section 2021(b).

11 Place of Practice

12 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
13 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
14 facility.

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

19 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
20 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
21 calendar days.

22 In the event Respondent should leave the State of California to reside or to practice
23 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
24 departure and return.

25 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
26 available in person upon request for interviews either at Respondent's place of business or at the
27 probation unit office, with or without prior notice throughout the term of probation.

1 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine in California as defined in
5 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
6 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
7 time spent in an intensive training program which has been approved by the Board or its designee
8 shall not be considered non-practice. Practicing medicine in another state of the United States or
9 Federal jurisdiction while on probation with the medical licensing authority of that state or
10 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
11 not be considered as a period of non-practice.

12 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
13 months, Respondent shall successfully complete a clinical training program that meets the criteria
14 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
15 Disciplinary Guidelines" prior to resuming the practice of medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice will relieve Respondent of the responsibility to comply with the
19 probationary terms and conditions with the exception of this condition and the following terms
20 and conditions of probation: Obey All Laws; and General Probation Requirements.

21 10. COMPLETION OF PROBATION. Respondent shall comply with all financial
22 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
23 completion of probation. Upon successful completion of probation, Respondent's certificate shall
24 be fully restored.

25 11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke

1 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
2 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
3 be extended until the matter is final.

4 12. LICENSE SURRENDER. Following the effective date of this Decision, if
5 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
6 the terms and conditions of probation, Respondent may request to surrender his or her license.
7 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
8 determining whether or not to grant the request, or to take any other action deemed appropriate
9 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
10 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
11 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
12 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
13 application shall be treated as a petition for reinstatement of a revoked certificate.

14 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
15 with probation monitoring each and every year of probation, as designated by the Board, which
16 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
17 California and delivered to the Board or its designee no later than January 31 of each calendar
18 year.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Thomas R. Bradford, Esq. I understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 11/6/12

James Alfred Lemus
JAMES ALFRED LEMUS, M.D.
Respondent

9
10 I have read and fully discussed with Respondent James Alfred Lemus, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 11/6/12

Thomas R. Bradford, Esq.
Thomas R. Bradford, Esq.
Attorney for Respondent

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1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Medical Board of California of the Department of Consumer
4 Affairs.

5 Dated: 11/9/13

Respectfully submitted,

6 KAMALA D. HARRIS
7 Attorney General of California
8 ROBERT MCKIM BELL
9 Supervising Deputy Attorney General

10 
11 PEGGIE BRADFORD TARWATER
12 Deputy Attorney General
13 *Attorneys for Complainant*

14 LA2012604115
15 60867964.doc

Exhibit A

Accusation No. 11-2011-218741

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 24 2013
BY: 2: F. W. A. 2 ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 620-6068
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 11-2011-218741

12 JAMES ALFRED LEMUS, M.D.
5020 East Washington Boulevard
13 City of Commerce, California 90040

ACCUSATION

14 Physician's and Surgeon's Certificate No. G
42274,

15
16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about July 1, 1980, the Medical Board of California issued Physician's and
24 Surgeon's Certificate number G 42274 to James Alfred Lemus, M.D. (Respondent). The
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on September 30, 2013, unless renewed.

27 ///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws.

4. Business and Professions Code section 2227¹ provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"....

"....

"....

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

¹ All statutory references are to the Business and Professions Code, unless otherwise indicated.

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"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

8. Title 26, United States Code, section 7201 provides:

"Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution."

CAUSE FOR DISCIPLINE
(Conviction of a Crime)

9. Respondent is subject to disciplinary action under section 2227, 2234, and 2236 and California Code of Regulations, title 16, section 1360, in that he was convicted of attempting to evade or defeat payment of income tax in violation of 26 United States Code section 7201. The circumstances are as follows:

10. During the 2003 tax year, Respondent owned and operated Lemus Medical Clinic (LMC), in Commerce, California. During that time period, LMC provided physicals and drug

1 testing to truck drivers as required by the Department of Transportation. Respondent required
2 most of those truck drivers to pay for the testing in cash. In 2003, Respondent received
3 approximately \$88,663 in cash from performing these drug tests. However, in order to conceal
4 the cash receipts from the Internal Revenue Service ("IRS"). Respondent knowingly failed to
5 report that cash to the IRS.

6 11. Respondent knew that he had received substantial taxable income during 2003,
7 namely \$88,663 in cash, and that he was required to file a United States Individual Tax Return,
8 Form 1040, reporting his taxable income, including the cash he received, and pay the taxes that
9 were due. Respondent willfully attempted to evade and defeat the assessment and payment of
10 such tax by willfully failing to report the cash he received on his 2003 Federal Income Tax
11 Return.

12 12. Respondent acted for the purpose of evading his duties under the tax laws and not as a
13 result of accident or negligence. Respondent's actions resulted in an additional tax due and
14 owing to the IRS of \$20,626 for 2003.

15 13. On or about March 2, 2011, in United States District Court, Central District of
16 California, Case Number CR11-00181-MMM, an Information was filed charging Respondent
17 with attempting to evade or defeat payment of income tax in violation of 26 United States Code
18 section 7201.

19 14. On or about March 2, 2011, a plea agreement was filed in which Respondent pled
20 guilty to the charge as set forth in the Information.

21 15. On or about October 24, 2011, Respondent was sentenced. The terms and conditions
22 included the following: one-month commitment to the Bureau of Prisons; supervised release for a
23 period of three years, with nine months in a home detention program; filing and payment of taxes
24 owed for 2003 through 2007; and additional fees and penalties.

25 16. Respondent's conduct, as set forth in paragraphs 9 through 15 constitutes the
26 conviction of a crime, substantially related to the qualifications, functions or duties of a physician,
27 pursuant to section 2236 of the Code. Therefore cause for discipline exists.
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

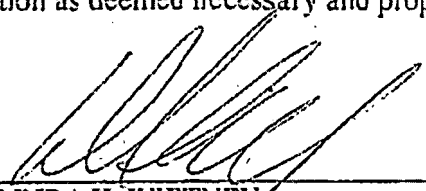
1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42274, issued to James Alfred Lemus, M.D.;

2. Revoking, suspending or denying approval of his authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. If he is placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: July 24, 2012


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

LA2012604115

EXHIBIT B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

JAMES ALFRED LEMUS, M.D.)

Case No. 11-2011-218741

Physician's and Surgeon's)
Certificate No. G-42274)

Respondent)
_____)

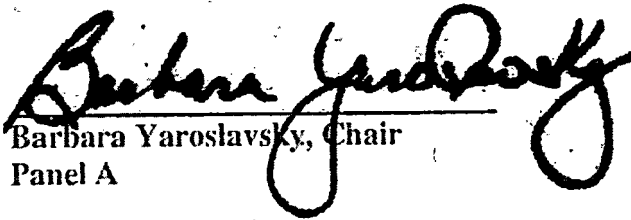
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 8, 2013.

IT IS SO ORDERED: January 9, 2013.

MEDICAL BOARD OF CALIFORNIA


Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
California Department of Justice
5 300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 620-6068
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 JAMES ALFRED LEMUS, M.D.
5020 East Washington Boulevard
13 City of Commerce, California 90040

14 Physician's and Surgeon's Certificate No. G
42274

15 Respondent.
16

Case No. 11-2011-218741

OAH No. 2012090231

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs (Board). She brought this action solely in her
23 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
24 State of California, by Peggine Bradford Tarwater, Deputy Attorney General.

25 2. Respondent James Alfred Lemus, M.D. (Respondent) is represented in this
26 proceeding by attorney Thomas R. Bradford, Esq., whose address is 100 North First Street, Suite
27 300, Burbank, California 91502
28

1 3. On or about July 1, 1980, the Medical Board of California issued Physician's and
2 Surgeon's Certificate No. G 42274 to James Alfred Lemus, M.D. (Respondent). The Physician's
3 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
4 in Accusation No. 11-2011-218741 and will expire on September 30, 2013, unless renewed.

5 JURISDICTION

6 4. Accusation No. 11-2011-218741 was filed before the Medical Board of California
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 July 24, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 11-2011-218741 is attached as Exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 11-2011-218741. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 his own expense; the right to confront and cross-examine the witnesses against him; the right to
20 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
21 the attendance of witnesses and the production of documents; the right to reconsideration and
22 court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42274 issued to Respondent James Alfred Lemus, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for seven years on the following terms and conditions.

1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the practice of medicine for 30 days. Days spent in custody as a result of Respondent's commitment to the Bureau of Prisons in United States District Court, Central District of California, Case Number CR11-00181-MMM may be credited to meet the 30-day requirement.

2. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall within the first three years of probation, provide 300 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. Prior to engaging in any community service, Respondent shall provide a true copy of the Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified

1 by the program, but no later than one year after attending the classroom component. The
2 professionalism program shall be at Respondent's expense and shall be in addition to the
3 Continuing Medical Education requirements for renewal of licensure.

4 A professionalism program taken after the acts that gave rise to the charges in the
5 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
6 or its designee, be accepted towards the fulfillment of this condition if the program would have
7 been approved by the Board or its designee had the program been taken after the effective date of
8 this Decision.

9 Respondent shall submit a certification of successful completion to the Board or its
10 designee not later than 15 calendar days after successfully completing the program or not later
11 than 15 calendar days after the effective date of the Decision, whichever is later.

12 4. NOTIFICATION. Within seven days of the effective date of this Decision,
13 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
14 Chief Executive Officer at every hospital where privileges or membership are extended to
15 Respondent, at any other facility where Respondent engages in the practice of medicine,
16 including all physician and locum tenens registries or other similar agencies, and to the Chief
17 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
18 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
19 calendar days.

20 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

21 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
22 governing the practice of medicine in California and remain in full compliance with any court
23 ordered criminal probation, payments, and other orders.

24 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
25 under penalty of perjury on forms provided by the Board, stating whether there has been
26 compliance with all the conditions of probation.

27 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
28 of the preceding quarter.

1 7. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit and all terms and conditions of
4 this Decision.

5 Address Changes

6 Respondent shall, at all times, keep the Board informed of Respondent's business and
7 residence addresses, email address (if available), and telephone number. Changes of such
8 addresses shall be immediately communicated in writing to the Board or its designee. Under no
9 circumstances shall a post office box serve as an address of record, except as allowed by Business
10 and Professions Code section 2021(b).

11 Place of Practice

12 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
13 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
14 facility.

15 License Renewal

16 Respondent shall maintain a current and renewed California physician's and surgeon's
17 license.

18 Travel or Residence Outside California

19 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
20 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
21 calendar days.

22 In the event Respondent should leave the State of California to reside or to practice
23 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
24 departure and return.

25 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
26 available in person upon request for interviews either at Respondent's place of business or at the
27 probation unit office, with or without prior notice throughout the term of probation.
28

1 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine in California as defined in
5 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
6 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
7 time spent in an intensive training program which has been approved by the Board or its designee
8 shall not be considered non-practice. Practicing medicine in another state of the United States or
9 Federal jurisdiction while on probation with the medical licensing authority of that state or
10 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
11 not be considered as a period of non-practice.

12 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
13 months, Respondent shall successfully complete a clinical training program that meets the criteria
14 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
15 Disciplinary Guidelines" prior to resuming the practice of medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice will relieve Respondent of the responsibility to comply with the
19 probationary terms and conditions with the exception of this condition and the following terms
20 and conditions of probation: Obey All Laws; and General Probation Requirements.

21 10. COMPLETION OF PROBATION. Respondent shall comply with all financial
22 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
23 completion of probation. Upon successful completion of probation, Respondent's certificate shall
24 be fully restored.

25 11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke

1 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
2 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
3 be extended until the matter is final.

4 12. LICENSE SURRENDER. Following the effective date of this Decision, if
5 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
6 the terms and conditions of probation, Respondent may request to surrender his or her license.
7 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
8 determining whether or not to grant the request, or to take any other action deemed appropriate
9 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
10 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
11 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
12 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
13 application shall be treated as a petition for reinstatement of a revoked certificate.

14 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
15 with probation monitoring each and every year of probation, as designated by the Board, which
16 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
17 California and delivered to the Board or its designee no later than January 31 of each calendar
18 year.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Thomas R. Bradford, Esq. I understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 11/6/12

James Alfred Lemus
JAMES ALFRED LEMUS, M.D.
Respondent

10 I have read and fully discussed with Respondent James Alfred Lemus, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 11/6/12

Thomas R. Bradford, Esq.
Thomas R. Bradford, Esq.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 11/9/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 11-2011-218741

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 11-2011-218741

JAMES ALFRED LEMUS, M.D.
5020 East Washington Boulevard
City of Commerce, California 90040

ACCUSATION

Physician's and Surgeon's Certificate No. G
42274,

Respondent.

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 1, 1980, the Medical Board of California issued Physician's and Surgeon's Certificate number G 42274 to James Alfred Lemus, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2013, unless renewed.

///

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws.

4. Business and Professions Code section 2227¹ provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

". . . .

". . . .

". . . .

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

¹ All statutory references are to the Business and Professions Code, unless otherwise indicated.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

7. California Code of Regulations, title 16, section 1360, states:

“For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.”

8. Title 26, United States Code, section 7201 provides:

"Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution."

CAUSE FOR DISCIPLINE

(Conviction of a Crime)

9. Respondent is subject to disciplinary action under section 2227, 2234, and 2236 and California Code of Regulations, title 16, section 1360, in that he was convicted of attempting to evade or defeat payment of income tax in violation of 26 United States Code section 7201. The circumstances are as follows:

10. During the 2003 tax year, Respondent owned and operated Lemus Medical Clinic (LMC), in Commerce, California. During that time period, LMC provided physicals and drug

1 testing to truck drivers as required by the Department of Transportation. Respondent required
2 most of those truck drivers to pay for the testing in cash. In 2003, Respondent received
3 approximately \$88,663 in cash from performing these drug tests. However, in order to conceal
4 the cash receipts from the Internal Revenue Service ("IRS"). Respondent knowingly failed to
5 report that cash to the IRS.

6 11. Respondent knew that he had received substantial taxable income during 2003,
7 namely \$88,663 in cash, and that he was required to file a United States Individual Tax Return,
8 Form 1040, reporting his taxable income, including the cash he received, and pay the taxes that
9 were due. Respondent willfully attempted to evade and defeat the assessment and payment of
10 such tax by willfully failing to report the cash he received on his 2003 Federal Income Tax
11 Return.

12 12. Respondent acted for the purpose of evading his duties under the tax laws and not as a
13 result of accident or negligence. Respondent's actions resulted in an additional tax due and
14 owing to the IRS of \$20,626 for 2003.

15 13. On or about March 2, 2011, in United States District Court, Central District of
16 California, Case Number CR11-00181-MMM, an Information was filed charging Respondent
17 with attempting to evade or defeat payment of income tax in violation of 26 United States Code
18 section 7201.

19 14. On or about March 2, 2011, a plea agreement was filed in which Respondent pled
20 guilty to the charge as set forth in the Information.

21 15. On or about October 24, 2011, Respondent was sentenced. The terms and conditions
22 included the following: one-month commitment to the Bureau of Prisons; supervised release for a
23 period of three years, with nine months in a home detention program; filing and payment of taxes
24 owed for 2003 through 2007; and additional fees and penalties.

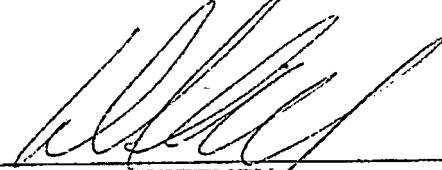
25 16. Respondent's conduct, as set forth in paragraphs 9 through 15 constitutes the
26 conviction of a crime, substantially related to the qualifications, functions or duties of a physician,
27 pursuant to section 2236 of the Code. Therefore cause for discipline exists.
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 42274, issued to James Alfred Lemus, M.D.;
2. Revoking, suspending or denying approval of his authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. If he is placed on probation, ordering him to pay the Medical Board of California the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED: July 24, 2012


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

LA2012604115